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CLOSED, TRIAL-LINCOLN

**U.S. District Court
District of Nebraska (4 Lincoln)
CIVIL DOCKET FOR CASE #: 4:09-cv-03198-WKU-CRZ**

Central Platte Natural Resources District v. United States
Department of Agriculture et al
Assigned to: Senior Judge Warren K. Urbom
Referred to: Magistrate Judge Cheryl R. Zwart
Case in other court: USCA 8th Circuit, 10-03205

Date Filed: 09/18/2009
Date Terminated: 09/08/2010
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Cause: 05:552 Freedom of Information Act

Plaintiff

**Central Platte Natural Resources
District**

represented by **Donald G. Blankenau**
BLANKENAU, WILMOTH LAW FIRM
206 South 13th Street
Suite 1425
Lincoln, NE 68508-2002
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Fax: (402) 475-7085
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas R. Wilmoth
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V.

Defendant

**United States Department of
Agriculture**

represented by **Robert L. Homan**
U.S. ATTORNEY'S OFFICE - OMAHA
1620 Dodge Street
Suite 1400
Omaha, NE 68102-1506
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LEAD ATTORNEY
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Defendant

Farm Service Agency

represented by **Robert L. Homan**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Interested Party

**Groundwater Management Districts
Association**
GMDA

represented by **Benjamin E. Griffith**
GRIFFITH, GRIFFITH LAW FIRM
P.O. Box 1680
123 South Court Street
Cleveland, MS 38732
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Date Filed	#	Docket Text
09/18/2009	<u>1</u>	COMPLAINT against United States Department of Agriculture, Farm Service Agency (Filing fee \$ 350, receipt number 08670000000001603749), by Attorney Thomas R. Wilmoth on behalf of Central Platte Natural Resources District (Attachments: # <u>1</u> Civil Cover Sheet)(Wilmoth, Thomas) (Entered: 09/18/2009)

09/18/2009	2	TEXT NOTICE OF JUDGES ASSIGNED: Senior Judge Warren K. Urbom and Richard G. Kopf (REFERRAL JUDGE) assigned. (JAB) (Entered: 09/18/2009)
09/18/2009	3	TEXT ORDER - Regarding Lincoln Magistrate Docket. Pursuant to the retirement of Magistrate Judge David L. Piester on August 1, 2009, all civil and criminal cases previously assigned to Judge Piester are reassigned to District Judge Richard G. Kopf. Judge Kopf will handle pretrial management in new civil and criminal cases assigned to Judges Kopf and Urbom in accordance with NEGenR 1.4(a)(2) and NECivR 72.1 until a new magistrate judge is appointed. Ordered by Chief Judge Joseph F. Bataillon. (JAB) (Entered: 09/18/2009)
09/18/2009	4	Summons Requested as to United States Department of Agriculture regarding Complaint, 1 . (Wilmoth, Thomas) (Entered: 09/18/2009)
09/18/2009	5	Summons Requested as to Farm Service Agency regarding Complaint, 1 . (Wilmoth, Thomas) (Entered: 09/18/2009)
09/18/2009	6	Summons Requested as to United States Attorney General regarding Complaint, 1 . (Wilmoth, Thomas) (Entered: 09/18/2009)
09/18/2009	7	Summons Requested as to United States Attorney for the District of Nebraska regarding Complaint, 1 . (Wilmoth, Thomas) (Entered: 09/18/2009)
09/18/2009	8	Summons Issued as to defendant United States Department of Agriculture,(1- USDA; 1-US Attorney General; 1-US Attorney-Nebraska) and Farm Service Agency. YOU MUST PRINT YOUR ISSUED SUMMONS, WHICH ARE ATTACHED TO THIS DOCUMENT. PAPER COPIES WILL NOT BE MAILED. (GJG) (Entered: 09/18/2009)
10/07/2009	9	SUMMONS Returned Executed upon defendant United States Department of Agriculture on 9/25/2009; Farm Service Agency on 9/25/2009. (Attachments: # 1 Submission From Sender Certified Return Receipts)(Wilmoth, Thomas) (Entered: 10/07/2009)
10/08/2009	10	TEXT NOTICE OF INCORRECT EVENT used when filing the Summons Returned Executed 9 by Deputy Clerk. In the future, use the event Summons Returned Executed as to USA.(GJG) (Entered: 10/08/2009)
10/08/2009	11	Unopposed MOTION for Extension of Time to File Answer by Attorney Robert L. Homan on behalf of Defendants United States Department of Agriculture, Farm Service Agency.(Homan, Robert) (Entered: 10/08/2009)
10/08/2009	12	TEXT ORDER granting 11 Motion for Extension of Time to Answer. United States Department of Agriculture answer due 11/20/2009 and Farm Service Agency answer due 11/20/2009. Ordered by Deputy Clerk. (GJG) (Entered: 10/08/2009)

11/19/2009	13	ANSWER to <i>Complaint</i> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture(Homan, Robert) (Entered: 11/19/2009)
11/20/2009	14	SCHEDULING PACKET - Rule 26 Meeting Report Deadline set for 12/28/2009. Ordered by Judge Richard G. Kopf. (GJG) (Entered: 11/20/2009)
12/23/2009	15	REPORT of Rule 26(f) Planning Meeting (<i>Joint</i>) by Attorney Thomas R. Wilmoth on behalf of Plaintiff Central Platte Natural Resources District.(Wilmoth, Thomas) (Entered: 12/23/2009)
01/05/2010	16	MEMORANDUM AND ORDER regarding Report of Rule 26(f) Planning Meeting 15 filed by Central Platte Natural Resources District. This case raises an issue of law which will likely be resolved on an administrative record, and without discovery. In addition, the plaintiff is currently considering whether to move for leave to file an amended complaint. Accordingly, The court will not presently enter a final progression order for this case. The plaintiff is given until January 15, 2010 to move to file an amended complaint. Any motion filed shall state whether the government opposes plaintiff's motion for leave to amend. Ordered by Judge Richard G. Kopf. (JAB) (Entered: 01/05/2010)
01/11/2010	17	AMENDED COMPLAINT (<i>First</i>) against Defendant Farm Service Agency, United States Department of Agriculture, by Attorney Thomas R. Wilmoth on behalf of Central Platte Natural Resources District(Wilmoth, Thomas) (Entered: 01/11/2010)
01/12/2010	18	Unopposed MOTION for Leave to <i>File First Amended Complaint</i> by Attorney Thomas R. Wilmoth on behalf of Plaintiff Central Platte Natural Resources District. (Attachments: # 1 Exhibit 1)(Wilmoth, Thomas) (Entered: 01/12/2010)
01/13/2010	19	MEMORANDUM AND ORDER - The plaintiff's unopposed motion for leave to file a first amended complaint, (filing no. 18), is granted, and the plaintiff's first amended complaint, (filing no. 17), is deemed properly filed. Upon review of the parties Rule 26(f) Report, (filing no. 15), this case will likely be resolved on an administrative record. Progression of this case to final resolution shall proceed as set out in this Memorandum and Order. Ordered by Judge Richard G. Kopf. (GJG) (Entered: 01/13/2010)

01/20/2010	<u>20</u>	TEXT ORDER - Regarding Magistrate Judge Zwart's Docket (General Order 2010-01). All cases previously assigned to District Judge Richard G. Kopf for pretrial management are herewith reassigned to Magistrate Judge Zwart. Magistrate Judge Zwart shall be paired with Judges Kopf and Urbom for the management of civil and criminal cases on Judges Kopf and Urbom's dockets. The Clerk of the Court shall provide notice of this order to counsel or parties in all cases which are reassigned to Magistrate Judge Zwart and for which there are currently matters pending. Notice need not be given in closed cases for which there are no matters pending. Ordered by Chief Judge Joseph F. Bataillon. NOTE: The notice of electronic filing attached to this entry reflects multiple case numbers and recipients.(MKR) (Entered: 01/20/2010)
02/12/2010	<u>21</u>	ANSWER to Amended Complaint <u>17</u> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture(Homan, Robert) (Entered: 02/12/2010)
04/14/2010	<u>22</u>	MOTION to Dismiss <i>and Motion for Summary Judgment</i> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) (Entered: 04/14/2010)
04/14/2010	<u>23</u>	INDEX in support of MOTION to Dismiss <i>and Motion for Summary Judgment</i> <u>22</u> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibits A-H, # <u>3</u> Exhibits I-L, # <u>4</u> Exhibits M-O)(Homan, Robert) (Entered: 04/14/2010)
04/14/2010	<u>24</u>	BRIEF in support of MOTION to Dismiss <i>and Motion for Summary Judgment</i> <u>22</u> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) (Entered: 04/14/2010)
05/17/2010	<u>25</u>	RESPONSE regarding MOTION to Dismiss <i>and Motion for Summary Judgment</i> <u>22</u> <i>and Request for Oral Argument with Oral Testimony</i> by Attorney Thomas R. Wilmoth on behalf of Plaintiff Central Platte Natural Resources District.(Wilmoth, Thomas) (Entered: 05/17/2010)
05/17/2010	<u>26</u>	INDEX in support of Response <u>25</u> by Attorney Thomas R. Wilmoth on behalf of Plaintiff Central Platte Natural Resources District. (Attachments: # <u>1</u> Exhibit Wilmoth Decl and Exhibits, # <u>2</u> Exhibit Bishop Decl and Ex 1-13, # <u>3</u> Exhibit 14-20, # <u>4</u> Exhibit 21-23, # <u>5</u> Exhibit 24 pt., # <u>6</u> Exhibit 24-26, # <u>7</u> Exhibit 27-30)(Wilmoth, Thomas) (Entered: 05/17/2010)
05/26/2010	<u>27</u>	STRICKEN Unopposed MOTION to Extend <i>Time to Respond to Plaintiff's</i> Response <u>25</u> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) Modified on 6/1/2010 to strike pursuant Order filing <u>31</u> (GJG). (Entered: 05/26/2010)

05/27/2010	<u>28</u>	RESPONSE regarding Unopposed MOTION to Extend <i>Time to Respond to Plaintiff's</i> Response <u>25</u> <u>27</u> by Attorney Thomas R. Wilmoth on behalf of Plaintiff Central Platte Natural Resources District.(Wilmoth, Thomas) (Entered: 05/27/2010)
05/27/2010	<u>29</u>	MOTION to Strike Unopposed MOTION to Extend <i>Time to Respond to Plaintiff's</i> Response <u>25</u> <u>27</u> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) (Entered: 05/27/2010)
05/27/2010	<u>30</u>	MOTION to Extend Response <u>25</u> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) (Entered: 05/27/2010)
05/28/2010	<u>31</u>	ORDER denying as moot <u>27</u> Defendant's Motion for Extension of Time; granting <u>29</u> Defendant's Motion to Strike ; granting <u>30</u> Defendants' Motion for Extension of Time. The plaintiff shall file and serve its response to the Defendants Motion for Extension of Time, filing 30, on or before June 11, 2010. Ordered by Senior Judge Warren K. Urbom. (EJL) (Entered: 05/28/2010)
05/28/2010	<u>32</u>	MOTION for Leave to File Amicus Brief by Attorney Benjamin E. Griffith on behalf of Interested Party Groundwater Management Districts Association. (SED) (Entered: 05/28/2010)
05/28/2010	<u>33</u>	BRIEF in support of MOTION for Leave to File Amicus Brief <u>32</u> by Attorney Benjamin E. Griffith on behalf of Interested Party Groundwater Management Districts Association. (SED) (Entered: 05/28/2010)
06/08/2010	<u>34</u>	APPLICATION/ORDER admitting pro hac vice Attorney Benjamin E. Griffith for Interested Party Groundwater Management Districts Association as ordered by Deputy Clerk. (SED) (Entered: 06/08/2010)
06/11/2010	<u>35</u>	INDEX in support of <i>Defendants' Reply Brief to Plaintiff's Opposition to Defendants' Motion to Dismiss and Motion for Summary Judgment</i> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A to Declaration)(Homan, Robert) (Entered: 06/11/2010)
06/11/2010	<u>36</u>	BRIEF <i>in Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss and Motion for Summary Judgment</i> <u>25</u> by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) (Entered: 06/11/2010)

06/30/2010	37	ORDER granting Groundwater Management Districts Association's Motion for Leave to file Amicus Brief 32 . GMDA shall file its brief as amicus curiae as soon as possible, and no later than July 6, 2010; within 14 days of the date of the filing of GMDAs brief, the parties may file a response to the brief, or, if necessary, request additional time to form a response to the brief. Case Management Deadline set for 7/6/2010. Ordered by Senior Judge Warren K. Urbom. (EJL) (Entered: 06/30/2010)
07/01/2010	38	BRIEF in opposition to MOTION to Dismiss <i>and Motion for Summary Judgment</i> 22 [<i>Amicus Brief</i>] by Attorney Benjamin E. Griffith on behalf of Interested Party Groundwater Management Districts Association. (Attachments: # 1 Appendix I - Part 1 to Amicus Brief of GMDA, # 2 Appendix I - Part 2 to Amicus Brief of GMDA, # 3 Appendix I - Part 3 to Amicus Brief of GMDA, # 4 Appendix II to Amicus Brief of GMDA, # 5 Appendix III to Amicus Brief of GMDA)(Griffith, Benjamin) (Entered: 07/01/2010)
07/09/2010	39	MOTION to Extend <i>Time to Respond to GMDA's Amicus Brief</i> , 38 by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) (Entered: 07/09/2010)
07/12/2010	40	ORDER granting 39 Motion for Extension of Time to Respond to GMDA's Amicus Brief. The defendants shall have on or before July 22, 2010, to file and serve their response to GMDAs Amicus Brief. Case Management Deadline set for 7/22/2010. Ordered by Senior Judge Warren K. Urbom. (EJL) (Entered: 07/12/2010)
07/20/2010	41	REPLY BRIEF <i>in Response to GMDA's Amicus Brief</i> 38 by Attorney Robert L. Homan on behalf of Defendants Farm Service Agency, United States Department of Agriculture.(Homan, Robert) (Entered: 07/20/2010)
09/08/2010	42	MEMORANDUM AND ORDER - The defendants' motion to dismiss and motion for summary judgment, filing 22 , is granted; and the plaintiff's request for oral argument and an evidentiary hearing, filing 25 , is denied. Ordered by Senior Judge Warren K. Urbom. (AOA) (Entered: 09/09/2010)
09/08/2010	43	JUDGMENT - In accordance with the Memorandum and Order 42 on Defendants' Motion to Dismiss and Motion for Summary Judgment: IT IS ORDERED that judgment is entered in favor of the defendants and against the plaintiff. Ordered by Senior Judge Warren K. Urbom. (AOA) (Entered: 09/09/2010)
10/05/2010	44	NOTICE OF APPEAL regarding Order on Motion to Dismiss, 42 , Judgment, 43 by Attorney Thomas R. Wilmoth on behalf of Plaintiff Central Platte Natural Resources District. Filing fee \$ 455, receipt number 0867-1878302. by Attorney Thomas R. Wilmoth on behalf of Plaintiff Central Platte Natural Resources District (Attachments: # 1 Form A, # 2 Form B)(Wilmoth, Thomas) (Entered: 10/05/2010)

10/05/2010	45	NOTIFICATION OF APPEAL AND NOA SUPPLEMENT by Clerk to USCA regarding Notice of Appeal to USCA, 44 of Memorandum and Order 42 and Judgment 43 . Notice of Appeal filed on 10/5/2010 by Plaintiff Central Platte Natural Resources District. Appellant's Forms A and B are attached to the Notice of Appeal 44 . NOTIFICATION TO COUNSEL AND PARTIES FILE REQUEST FOR TRANSCRIPT WITH THE DISTRICT COURT CLERK'S OFFICE (JAB). Modified on 10/6/2010 to add notification to counsel regarding transcript. (JAB) (Entered: 10/05/2010)
10/06/2010	46	SCHEDULING LETTER from USCA - 8th Circuit(10-3205) regarding Notice of Appeal to USCA, 44 . (Attachments: # 1 Transmittal Letter)(JAB) (Entered: 10/06/2010)
06/27/2011	47	COPY of Opinion of USCA - 8th Circuit (10-3205) regarding Notice of Appeal to USCA, 44 . For these reasons we affirm the judgment of the district court. (Attachments: # 1 Letter to West Publishing, # 2 Transmittal Letter)(GJG) (Entered: 06/27/2011)
06/27/2011	48	COPY of Order (Judgment) from USCA - 8th Circuit (10-3205). This appeal from the United States District Court was submitted on the record of the district court, briefs of the parties and was argued by counsel. After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court. (GJG) (Entered: 06/27/2011)
06/30/2011	49	PAPER COPY of Opinion of USCA - 8th Circuit (10-3205) regarding Notice of Appeal to USCA 44 . The judgment of the district court is affirmed. (Attachments: # 1 Transmittal Letter)(JAE) (Entered: 06/30/2011)
06/30/2011	50	PAPER COPY of Judgment from USCA - 8th Circuit (10-3205) regarding Notice of Appeal to USCA 44 . It is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court. (JAE) (Entered: 06/30/2011)
07/12/2011	51	COPY of Order from USCA - 8th Circuit (10-3205). Appellees shall recover from the appellant the sum of \$46.20 as taxable costs on appeal. (GJG) (Entered: 07/12/2011)
08/24/2011	52	MANDATE/JUDGMENT from USCA - 8th Circuit (10-3205) affirming the decision of the District Court regarding Notice of Appeal to USCA 44 . (TEL) (Entered: 08/24/2011)

Transaction Receipt

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